--48. (new) A method for selectively killing a cell expressing PSCA antigen comprising reacting an antibody from the group consisting of a monoclonal antibody designated 1G8 (ATCC No. HB-12612), 3C5 (ATCC No. HB-12616), 2H5 (ATCC No. HB12614), 3E6 (ATCC No. HB12618), or 4A10 (ATCC No. HB-12617) conjugated to a therapeutic agent with the cell so that the therapeutic agent so conjugated can kill the cell expressing PSCA antigen.--

REMARKS

Claims 1-43 were originally filed and subject to restriction. Applicants cancelled claims 1-43 above and added new claims 44-48. Accordingly, claims 44-48 are presently pending.

Support for new claims 44-48 may be found in the specification as originally filed as follows.

New claim 44 is supported in originally filed claim 43 and the specification at page 23, lines 26-34.

New claim 45 is supported in the specification at page 11, lines 4-13; page 13, line 29 through page 14, line 3; page 28, lines 3-7.

New claim 46 is supported in the specification at page 13, lines 29-36.

New claim 47 is supported in the specification at page 13, lines 29-36.

New claim 48 is supported in the specification at page 23, lines 17-19; page 12, lines 11-17.

Support for these new claims are found in the specification as originally filed and therefore do not involve new matter. Entry of these claims is respectfully requested.

RESTRICTION REQUIREMENT

In the Office Action, the Office is requiring restriction under 35 U.S.C. §121 to one of the following allegedly independent and distinct inventions:

Group 1: claims 1-6 and 24 drawn to PSCA proteins and associated peptides, classified in class 530, subclass 350+.

Group 2: claims 17-23, drawn to polynucleotide sequences, classified in class 536, subclass 23.1+.

Group 3: claims 7-16, 25-26 and 32, drawn to antibodies and methods of detecting PSCA, classified in class 530, subclass 387.1+.

Group 4: claims 27-31 and 33, drawn to methods of detecting a nucleic acid encoding PSCA in a tissue by DNA hybridization, classified in class 536, subclass 24.3.

Group 5: claims 34, 38 and 40-42, drawn to methods for diagnosing the presence of cancer by quantifying the concentration of PSCA protein, classified, for example, in class 435, subclass 7.1+.

Group 6: claims 35, 39 and 40-42, drawn to methods for diagnosing cancer by quantifying the level of nucleic acid encoding PSCA in a tissue, classified in class 435, subclass 6.

Group 7: claim 36, drawn to methods for monitoring the course of cancer in a subject by quantifying the concentration of PSCA protein in a patient at different time points, classified in class 435, subclass 7.23.

Group 8: claim 37, drawn to methods for monitoring the course of cancer in a subject by quantifying the concentration of RNA encoding PSCA in a patient at different time points, classified in class 435, subclass 6.

Group 9: claim 43, drawn to methods for selectively killing cells expressing PSCA, classified in class 424, subclass 138.1.

TRAVERSAL

Applicants hereby elect the invention of group 9 with traverse. Applicants have added claims 44-48 above which are directed to methods for selectively killing cells expressing PSCA.

Reconsideration of the Restriction Requirement is requested for the following reasons:

Applicants point out that under MPEP §803, there are two criteria for a proper requirement for restriction, namely, (1) the invention must be independent and distinct, AND (2) there must be serious burden on the Examiner for restriction to be required.

Applicants respectfully contend that the first requirement has not been met since the claims of Groups 2 depend, directly or indirectly, upon the claims of Group 1. The claims in these groups are dependent on each other because the nucleic acid molecules of Group 2 encode the proteins of Group 1. Further, the method of detecting and killing claims (of Groups 4-9) involve the use

of the antibodies or nucleic acid molecules of Groups 1-2. Therefore, the invention cannot be independent and distinct. Accordingly, the criteria for requiring restriction has not been met.

The Office states that in the subject application, the inventions of Groups I and II are unrelated because they are drawn to proteins and nucleic acids which have materially different structures and functions. While in general proteins and nucleic acids are different structures, the nucleic acid molecules in claims 5-12, 14, 17, 31-33 are templates for the proteins in claims 1-4 and 3 and no other protein.

The antibodies of Group III are related to the proteins of the invention of Group I because the proteins (or portions thereof) can be used to generate the antibodies.

Further, the second requirement of §803 has not been met because the Patent Office has not demonstrated a serious burden for searching the art. Each of the claims of Groups 2-9, either encode the protein of Group I or use it, directly or indirectly. Therefore, the art with respect to these claims overlaps because each of the claims are related to the protein of Group I. Thus, search of the art with regard to the invention of Groups 1-9 would not place an undue burden on the Examiner. Moreover, separate prosecution of these claims would be unnecessarily duplicative and thus wasteful of Patent Office resources. Therefore, under MPEP Section 803, the instant claims do not require restriction.

Applicants respectfully request that the Examiner reconsider and withdraw the Restriction Requirement as these claims.

Conclusion

Applicants submit that claims 1-43 should properly be examined together for the reasons discussed above.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone her at the number provided below.

No fee is deemed necessary in connection with the filing of this Amendment. If any fee is necessary, the Patent Office is authorized to charge any additional fee to Deposit Account No. 50-0306.

Respectfully submitted,

Sarah B. Adriano

Sarah B. Adriano
Registration No. 34,470
SaraLynn Mandel
Registration No. 31,853
Attorneys for Applicants
Mandel & Adriano
35 N. Arroyo Parkway
Pasadena, California 91103
(626) 395-7801